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SUBJECT: VIOLENT CRIME: GROWING THREAT TO GUATEMALAN DEMOCRACY

11. (SBU) Summary: Guatemalans have become numbed by the daily press reports of violent crime, and an increasing number identify the lack of public security as the nation's number one problem. The emergence of gangs ("maras") has taken the violence even to the remote rural areas of the country, and the under-funded, ineffective and corrupt justice system has not provided a response. The growth of violent crime in recent years is undermining Guatemalans' faith in democracy and influencing them to vote for a "strong hand" in the upcoming elections. Recent polls show that voters' faith that former General Rios Montt and his FRG could deliver security has greatly declined as a result of the FRG government's poor performance on crime during these past three years in office. According to the latest polls, GANA candidate Oscar Berger has taken the lead in public perception of being able to fight crime -- although he has not defined his platform. The Portillo Government's half-hearted attempts to improve public security by putting the military on the beat and by introducing anti-gang legislation will do little to change the crime situation between now and the January 2004 assumption of power by the new government. But there is widespread hope that a new government will create jobs, redirect budget resources from the military to law enforcement and administration of justice, and adequately fund social programs aimed at the root causes of crime. This cable is divided into three parts: snapshots of the daily reality with our best statistics, the staggering weakness of the justice system, and implications for democracy. End summary.

The Daily Reality

12. (U) As a bus pulls away from its latest stop, a man in front stands up and randomly shoots a fellow passenger dead, terrifying the other passengers. A man in the back of the bus announces that all passengers are to hand over their valuables, and then moves to the front, under the watchful eye of his partner, collecting cash, jewelry and cell phones from each passenger as he goes. Upon reaching the front of the bus, the driver is ordered to stop and the men disappear. In a variation on this theme, the bus is boarded by a group of youths who threaten all on board with an array of weapons that can range from grenades or handguns to assault rifles to home-made shotguns. They announce that they are collecting "war taxes" or "circulation taxes" depending on which gang they belong to, and pass a hat. If the passengers are lucky their cell phones, watches, and wallets will satisfy the gang members. If the passengers are unlucky, these robbers are invading the "turf" of a rival gang, resulting in a shoot-out, with the passengers caught in the crossfire. Every week there are between two and three violent assaults reported on-board busses, according to police reports. Bus owners, however, report that assaults and shake-downs of bus passengers and drivers by gang members average 60 a day in Guatemala City.

13. (U) As PolOff was purchasing fruit in the highland village of Tecpan, two young men with shaved heads and numerous tattoos strolled through the market openly stealing merchandise. One of them laughingly kicked over a table laden with bread, ruining all of it. No one said a word. Tecpan has virtually no police presence (8 percent of Guatemala's 330 municipalities have no police). Tecpan residents say police are useless anyway against the criminal gangs that now prey on even the smallest towns. Such is the frustration with the justice system that police have even been chased out of some towns and had their stations sacked when they tried to prevent mobs from taking the law into their own hands. A mob in Concepcion Tutuapa recently doused two suspected pickpockets with gasoline and burned them alive. When a police officer asked the mob to reconsider, he too was doused in gasoline but allowed to flee. Back in Tecpan, PolOff's vendor shrugged off her losses saying "we know who the gang members are and where they sleep; we're just waiting for a chance to hang them." Mobs in rural Guatemala lynched 104 people last year, about forty percent of them for suspected theft.

14. (U) It is impossible to pick up a Guatemalan newspaper without reading about someone being gunned down in traffic, killed for their cellphone, or caught in a drive-by-shooting;

the list is endless. Common crime has become so widespread that the recent murders, in public, under separate but suspicious circumstances, of high-profile individuals such as Judge Hector Rodriguez, former Congressmen Diego Velasco and Jose Lobo Dubon, and opposition party leader Jorge Alberto Rosal caused hardly a ripple, much less sustained public demands for investigation. In fact, the public has become so inured to daily doses of violent crime that when organized crime figures wish to send a message, they must go to great lengths--such as the October, 2002 incident in broad daylight at a major intersection in one of the city's better zones, where gangsters took the time to pump over 250 bullets into their victim's car--in order to distinguish their actions from common crime.

Police Statistics - A Crime Wave by the Numbers

--	murders (total)	murdered women	car thefts
2000	2,905	n/a	7,072
2001	3,210	222	7,784
2002	3,631	244	8,650
2003 (Jan-Jun)	2,930	158	4,891

15. (U) According to police estimates, there were 95 deadly assaults on-board busses in Guatemala City in 2002. Between 10 - 15 cars were stolen each day in the metro area. Murder rates have skyrocketed in the past three years, reaching an average of 10 per day in 2002. The murder rate continues to rise in 2003, averaging 16 per day in the first half of 2003. This murder rate approaches 45 per 100,000 inhabitants. Nearly 43 percent of residents in the Guatemala City metro area report being victims of a crime during the past 12 months, and 67 percent reported (to pollsters, not the distrusted police) observing activity in their neighborhoods they believed to be associated with narcotics. The same survey indicated that only one in five non-violent crimes is reported. For the first time since 1997, Guatemalans fear crime more than losing their jobs, according to a July survey.

16. (U) There has been an alarming rise in the murder of young women in 2003. A spate of double murders of young women over the last six weeks has attracted substantial media attention. Many of the cases of murdered young women have been attributed to growing gang activity, while others are related to sexual crimes and narcotics trafficking. Investigations of these crimes by the police have not been effective. There has also been an increase in kidnappings, especially in so-called "express kidnappings." In the first six months of 2003, the police reported 80 kidnappings in the Guatemala City metropolitan area, though many (if not most) kidnappings are never reported to the police. Madres Angustiadas, an NGO tracking crimes against women and children, has recorded 240 cases of kidnapping to date for 2003. Most of the victims are middle class women or children, who are kidnapped in the city's better zones and exchanged a few hours later for relatively small ransoms, typically 2,000 to 5,000 dollars.

17. (SBU) Gangs ("maras") are a growing source of crime not only in Guatemala City, but even in the most remote corners of rural Guatemala. The growth of gangs has been abetted by the lack of jobs, the breakdown of the traditional family (especially in indigenous areas), the return of Guatemalan-born gang members deported as criminal aliens from the U.S., a growing narcotics consumption problem in Guatemala, and by the ineffective rule of law. The government has proposed legislation to curb gang membership (similar to laws being considered in other neighboring countries), but the law raises serious human rights concerns, and does nothing to address the root causes of gang membership. Furthermore, recent attempts to round up gang members en masse have resulted in gruesome prison riots, as rival gangs have slaughtered each other live on TV to the horror of most Guatemalans.

Staggering Weakness in the Justice System

18. (SBU) Guatemala's judiciary has never been very effective in prosecuting crime and, despite procedural improvements during recent years (funded in part by us), popular faith in obtaining justice from the courts is not high. Low salaries, poor training, and weak disciplinary procedures, especially in the police, provide fertile ground for corruption, which feeds public distrust in all law enforcement officials and the rule of law more generally. Lack of continuity in law enforcement leadership (under the Portillo Administration there have been 4 Interior Ministers, 9 Police Directors, and 11 heads of the special narcotics police) limits institutional development, contributes to infighting for scarce resources and reinforces counter-productive institutional rivalry.

19. (SBU) The Police. The police are overwhelmed, undereducated and poorly paid. The Peace Accords stipulated that the ranks of the police should grow to a minimum of 20,000 officers, a level that was reached in 2000. Since then budgets have been systematically reduced and in some cases funds budgeted for the police were transferred to the military (as then-Minister of Interior, retired General Arevalo Lacs transferred Q20 million from the Ministry of Government's budget to the EMP, or Presidential Military Staff). In 2002, the Police Academy was only allocated a budget of 22 million quetzales (approximately \$2.8 million), while the Military Academy was allocated Q100 million (approximately \$13 million). According to press reports, none of the 20,000 agents trained since 1997 have had refresher training, and the academy recently cut new recruit training time from 11 to 6 months in an effort to get more police officers on the streets.

110. (SBU) Congress approved a police budget of Q1,324 million for 2003 (\$200 million), eighty percent of which is needed for salaries alone. As a result, the police lack fuel, radios, and spare parts for patrol cars (40 percent are inoperable). In the patrol cars that do operate, police are rationed to 3.5 gallons of gas per day - down from 5 gallons per day last year. Police stations often have no phones or electricity because bills go unpaid. The ratio of police to residents in developed countries is about 4 officers for every 1,000 residents. Guatemala has roughly one officer for every 2,200 residents. Few police officers are from indigenous communities or speak indigenous languages. Another challenge, according to the current PNC Director, is that only one fourth of the on-duty police force is actually patrolling at any given time, as the rest are: guarding people under house arrest, transferring prisoners to and from courts, checking weapons permits held by the army of private security guards (who outnumber the police 3 to 1), providing protection to a growing list of threatened persons, or discharging administrative functions.

111. (SBU) The Prosecutors. The Public Prosecutors are similarly not able to keep up with the growth of violent crime. With offices in only ten percent of Guatemalan municipalities, prosecutors can take days to reach a crime scene. According to a comprehensive study carried out by USAID in 1999, prosecutors in Guatemala City received around 90,000 criminal complaints that year. Reception clerks, left to their own devices without official criteria, refused to accept about one third of these cases, believing them to be without merit. About half of the remaining cases were dropped because the complainant failed to clearly identify the alleged guilty party. The remaining cases were divided among 35 prosecutor teams. Only about 1,100 of these cases resulted in actual court filings. Of the 90,000 criminal complaints studied, less than one percent resulted in a successful prosecution.

112. (SBU) A more recent three month analysis of the prosecutor's office reputed to be the best in Guatemala City showed that 100 percent of victims and witnesses recanted their testimony, refused to cooperate, or otherwise withdrew their complaint during the study period. Investigators report that victims are intimidated, but crime victims often say what little faith they had in their justice system was crushed by contact with it. Even assuming a wide margin of error in the studies and variations among prosecutors' offices, the results support Guatemalan's perceptions that the justice sector does not work well. Research released in August by GAM, a civil society group, shows that investigations have been completed in only 3 percent of the over 12,500 murders that have taken place in Guatemala since Portillo assumed power in January 2000. Guatemalan legal experts consulted by the Embassy estimate that about 10 percent of criminal complaints make it to court.

113. (SBU) The Courts. In a recent regional study of public faith in administration of justice in the hemisphere, only Peru ranked lower than Guatemala. The court system as a whole suffers from the same lack of resources and endemic corruption that afflict the police and the public prosecutors. The majority (60.9%) of prisoners in Guatemala's violent jails are being held in pre-trial confinement, and by the time their cases reach a judge, many have spent more time in detention than they would have served if convicted, according to a recent PNUD study. Judges assigned to the interior provinces usually do not speak indigenous languages, rarely live in the communities they serve, and frequently misunderstand or disregard the cultural impact of their rulings. However, there are bright spots. Courts rendered landmark convictions in the Mack and Gerrardi trials (overturned in the Mack case and under appeal in the Gerrardi case) and handed down 25-year sentences to 16 former narcotics police for extrajudicial killings in the Chocon incident. NAS has had some success with High-Impact Courts and USAID's Justice Centers are supporting case tracking systems, indigenous translators, and greater use of oral procedures for pre-trial motions. Additionally, USAID

supports alternative dispute resolution mechanisms in communities largely outside the reach of the current justice system.

14. (U) Another indication that courts are beginning to have some impact -- although hardly a bright spot -- is the rising number of threats and attacks against judges. More than 60 judges have received death threats in the first half of 2003.

Judge Hector Rodriguez Argueta was murdered in January and Judge Jaqueline Espana de Olivet narrowly escaped assassination in February when assailants put more than 20 bullets through her windshield. Judges are unable to purchase life insurance and have asked the government to establish a special police force to provide protection. Of the more than 700 judges in Guatemala, 31 have opted to hire private security guards, according to press reports. Not all the threats come from narcotics traffickers -- one community attempted to lynch its local magistrate when he levied only a small fine in a theft case. Another judge was threatened with his life if he ruled against recent teacher strikes.

Implications for Democracy

15. (SBU) The high levels of crime, especially violent crime, the growth of organized crime, and the corruption of public officials impose significant economic and social costs on Guatemala; they also directly undermine the legitimacy of democratic governance in the eyes of its citizens. The 5th Democratic Indicators Monitoring System (DIMS) study (published bi-annually, most recently in April, 2002) documents the weakness of public support for democracy in Guatemala during the past five years in which crime has spiraled. Respondents expressing satisfaction with the performance of democracy in Guatemala dropped from 40% in 1997 to 25% in 2001 (note: in Costa Rica, 68% said they were satisfied with the performance of their democracy. End note). Forty-seven percent of Guatemalans said that the government needs "a strong hand" to bring order. Guatemalans' support for specific democratic institutions (courts, Congress, Electoral Tribunal, public offices and political parties) is also low and has fallen into negative territory for the first time since the DIMS studies began in Guatemalan in 1993. These results are confirmed by other public image polling in which the political parties, the government, and Congress all have very low ratings (less than 10% positive image) compared with the press (67% positive), the churches (82%) and volunteer firefighters (90%). There was also a notable increase in the number of respondents who answered "none" to a question about which institutions are best placed to solve problems. In 1999, 22% said the central government was best placed, in 2001 only 11% agreed.

16. (SBU) Although Guatemalans have become accustomed to high levels of crime, over time the corrosive effect of increasingly violent crime feeds popular frustration with democratic government that apparently fails to live up to its promise. Guatemalans are increasingly cynical, yet a majority are still looking to the next government for a solution to their security problems, which now outrank economic problems. An election poll taken in early August showed that 51 percent of respondents considered crime to be Guatemala's biggest national problem, followed by unemployment (31%). The FRG was elected in 1999 in part on General Rios Montt's image as a strong-handed crime fighter, but continued deterioration of public security during the FRG's nearly four years in office has deprived the party, for the most part, of that banner in the current election. A recent poll shows that 41% of voters believe that presidential candidate Oscar Berger would do the best job of controlling crime, while 21% believe Efraim Rios Montt would.

Comment:

17. (SBU) The Portillo Government's anemic, last-minute attempts to address the crime problem by putting the military on the streets in a crime control capacity and introducing anti-gang legislation are not expected to have much impact on growing violent crime rates in the months remaining in his presidency. The leading candidates in the upcoming election, however, have identified and promised to address the three leading causes for the growth of crime -- the lack of jobs, an inadequately funded administration of justice system, and the lack of an effective social policy addressing the root causes of crime. The Embassy will make cooperation with the new government in its broad strategy to combat crime one of our highest priorities.

HAMILTON